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HIGHLIGHT:
Spreading regulatory misery to telecom upstarts won't help competition or consumers. Why not lift the burden from everyone?

BODY:
There is no subsidy like an old subsidy, especially if that subsidy has a pleasing moniker such as "universal service." There is no regulation like an old regulation, especially if that regulation sounds as benign as "equal access."

But now, the benign-sounding equal-access regulation is being used as a means for the longtime commercial recipients of universal-service subsidies to deter entry into their markets and raise competitors' costs. Consumers deserve better than this rank manipulation of the regulatory process. The Federal Communications Commission is considering whether to impose an equal-access requirement on competitive telecommunications carriers that enter rural markets and receive universal-service funding.

An equal-access requirement would mandate that the competitive entrants provide their customers with the same array of long-distance choice that the incumbent wireline companies must provide.

The equal-access regulation, a vestige of the breakup of AT&T in the 1980s, was fine in its day when the purpose was to open long-distance markets to competition. But that day has now passed.

Long-distance is rapidly disappearing as a distinct market, subsumed by bundled packages of local and long-distance services offered by a growing number of companies.

Now, the incumbents do have a very good point that regulatory burdens should

be symmetrical -- on both incumbents and new entrants. Incumbents should not
be forced to bear regulatory burdens new entrants do not bear.

But this argument just as easily supports the notion that incumbents should
be relieved of the equal-access regulation, not that new entrants should be
regulated, too. Sharing the misery of federal regulations will do nothing to
expand competition or benefit consumers.

In the competitive world, a world without the stylized competition
regulators impose, there would be no equal-access requirement on any carrier
-- be it a new, wireless entrant or an incumbent telecommunications provider.

Indeed, because a modern network reflects virtually no cost difference
between a local and long-distance call, it would be perfectly natural for
carriers to bundle and vertically integrate local and long-distance offerings.

This is seen today in the broader wireless arena, where distinctions between
local and long-distance calls are disappearing altogether. The main refuge
for consumers looking to avoid per-minute long distance charges consists of
wireless phones, where, incidentally, there is not an equal-access
requirement for long distance.

The regulatory model for the FCC to embrace here is the deregulatory one of
wireless. When companies -- be they incumbents or new entrants -- are given
maximum flexibility to tailor packages of services without regulatory
mandates, consumers are better off.

FCC Commissioner Kathleen Q. Abernathy, who chaired the joint federal-state
board attempting to resolve this question, was straightforward on the merits
of a potential equal-access requirement.

"The arguments advanced in support of adding equal access are wrong on the
law, wrong on the facts and wrong on policy," she wrote.

On the first count, the law, Abernathy notes, "Congress made crystal clear
that CMRS wireless carriers 'shall not be required to provide equal
access.'"

Moreover, she points out that this is not really a universal-service matter

because consumers already have access to a variety of long-distance providers, using "dial-around" or the so-called "10-10" numbers.

Seeing to the core of the matter and understanding the tactics being employed, she sees no need "to saddle wireless carriers and consumers with
new costs under the guise of regulatory parity."

The FCC's public-comment period -- the time when interested parties and outside experts can weigh in on the specifics of the case -- ended this week. Now comes the important decision-making process and, soon, a decision.
If deliberations are anything like those of the federal-state joint panel,
it will be a very close, or tie, vote.

There is little question that FCC members and their staff, very smart people
all, are used to ignoring pleasant monikers. The big question is whether
they see the need for deregulation as keenly as they should.

It is time to reduce regulations in the telecommunications marketplace for
all players, not to impose new ones on an emerging sector. There is no reason consumers should have to bear the brunt of increased regulatory gamesmanship.

Raymond L. Gifford is president of The Progress & Freedom Foundation andimmediate past chairman of the Colorado Public Utility Commission.